

Laura Hammett
16 Gold Lake Club Road
Conway, Arkansas 72032
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Bohemian_books@yahoo.com
Plaintiff, in *pro se*

IN THE CIRCUIT COURT OF FAULKNER COUNTY ARKANSAS
CIVIL DIVISION

LAURA HAMMETT, an individual

PLAINTIFF

V. CASE No. 23-cv-20-

**FIRST AMERICAN HOME WARRANTY
CORPORATION, a California Corporation;
NICHOLSON'S HEATING AND AIR
CONDITIONING, INC., an Arkansas
Corporation; SMARTCOOL OF
ARKANSAS, INC., an Arkansas Corporation,
DOES 1-99**

DEFENDANTS

**COMPLAINT
AND
DEMAND FOR JURY TRIAL**

Complaint and Demand for Jury Trial -Hammett v First American Home Warranty Corporation, et. al.
Faulkner County Circuit Court Case No. 23-cv-20-

Comes now, the Plaintiff, Laura Hammett, (hereinafter referred to as “Hammett” or “Plaintiff”), in *pro se*, who in support of this Complaint, states and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Hammett is an individual and is a resident of Faulkner County, Arkansas, and was at all relevant times that gave rise to this lawsuit.
2. First American Home Warranty Corporation (“FAHW”) is incorporated in California, has an agent for service of process in Fayetteville, Arkansas and provided home warranty policies in Faulkner County at all relevant times of the events that gave rise to this lawsuit.
3. FAHW is vicariously liable for the actions of its employees, agents and contractors by the theory of *Respondeat Superior*.
4. Nicholson’s Heating and Air Conditioning, Inc. (“Nicholson”) is incorporated in the state of Arkansas and did business in Faulkner County at all relevant times of the events that gave rise to this lawsuit.
5. Nicholson is vicariously liable for the actions of its employees, agents and contractors by the theory of *Respondeat Superior*.

6. Smartcool of Arkansas, Inc. ("Smartcool") is incorporated in the State of Arkansas and did business in Faulkner County at all relevant times of the events that gave rise to this lawsuit.
7. Smartcool is vicariously liable for the actions of its employees, agents and contractors by the theory of *Respondeat Superior*.
8. Doe defendants 1 to 99 may be determined through discovery.
9. The Faulkner County Circuit Court shall have original jurisdiction of all justiciable matters herein, which are not otherwise assigned pursuant to the Arkansas Constitution, pursuant to Ark. Code Ann. § 16-13-201.
10. Venue is proper in Faulkner County, Arkansas, pursuant to Ark. Code Ann. § 16-60-101. A substantial part of the events or omissions giving rise to the claim occurred within Faulkner County and the plaintiff resided in Faulkner County at the time of the events or omissions giving rise to the cause of action.
11. This lawsuit involves the following issues: (1) Fraud in the inducement; (2) Rescission; (3) Promissory Estoppel; (4) Negligence; (5) Reckless Endangerment; (6) Bodily injury and (7) outrage.
12. This action was commenced within the applicable statute of limitations as the statute of limitations for promissory estoppel, fraud in the inducement, negligence and reckless endangerment causing personal injury and outrage

claims are each three years (Ark. Code Ann. § 16–56–105); and no events giving rise to the suit took place more than two years ago.

Factual Background

13. Plaintiff obtained a home warranty through escrow on the purchase of her home. Defendant First American Home Warranty Corporation sent a “Contract and Home Warranty Guide”, (“the Contract”), a true and correct copy attached hereto as exhibit 1. It states, in part:

“First American Home Warranty is here to offer you peace of mind when covered breakdowns occur and to provide you with quality service when you need us most.”

14. When Plaintiff’s HVAC broke down only a week after moving into her home, Defendant FAHW did not replace or repair the unit.

15. Instead, in a ruse to keep Plaintiff’s money and not perform the service they received consideration for, the Defendants conspired to defraud the Plaintiff by denying the claim on the pretextual ground that the fault was a pre-existing condition.

16. The Plaintiff asked to rescind the contract conditionally the day she read the adhesion contract mailed to her after FAHW was paid. She would have replaced the unit herself immediately and gone to arbitration to be reimbursed

for the cost of replacement on the theory of fraud in the inducement. She should have been awarded the cost of replacement minus the cost of the policy.

17. Instead, FAHW promised they would fix or replace Plaintiff's HVAC.

18. When FAHW and its contractor Nicholson found they could not fix the unit cheaply, they concealed the fact from Hammett. They strung her along and gave her the run-around. Ultimately, they did what can be described as "gaslighting" Hammett.

19. The result was to cause Plaintiff not only aggravation and loss of income, but physical injury that may be permanent.

20. One of Plaintiff's businesses is restoring homes and reselling them. She has also restored a church and a community center building for charity.

21. In anticipation of working in the Central Arkansas area, the plaintiff purchased two homes in February and March of 2018. (All dates are 2018 unless specified.) The first in North Little Rock was for her son to live in with his small family and had an area downstairs for Plaintiff to stay in, like a "mother-in-law unit". This property is called "the NLR house".

22. Plaintiff decided to live with her boyfriend "Mike Hammett". She bought the second house on Lake Conway because it had more privacy and space for their boats and R.V. This property is called the "Gold Lake house".

23. The address of the Gold Lake house is 16 Gold Lake Club Road, Conway, Arkansas, 72032.
24. Both homes were “move-in condition”. Plaintiff was represented by the same Realtor on both purchases. The Realtor suggested Plaintiff use First American Home Warranty to buy a policy that was supposed to cover unforeseen problems with the HVAC and other systems in the house.
25. Plaintiff was a real estate broker herself for decades, actively selling homes in the late 1990s until about 2008. She had listened to several presentations by Defendant FAHW during that period and suggested buyers she represented ask for the sellers to buy a policy for them.
26. The information that she passed along included a story she heard of how a dishwasher broke in the first weeks of owning a home and the home warranty company replaced it with a brand new one.
27. She also repeated that sellers were not as likely to knock \$400 off the price of the home as they were to buy a \$400 policy.
28. The policy was supposed to give peace of mind to the buyer and seller that in the unfortunate event of a failure of a unit in the home, costly and time-consuming litigation would not be required to affix blame between buyer and seller.

29. Both Mike and Laura Hammett have been in the building industries for decades, but their home is their sanctuary and they don't have the time or energy to fix problems in their own home...like the cobbler's kids have no shoes. They did not want their home to be a fixer and told this to their Realtor.
30. Both sellers gave disclosure statements that said there were no problems with the HVAC. The seller of the Gold Lake house was a retired real estate agent and gave a detailed description of having fixed several problems, none of them regarding the HVAC.
31. Plaintiff and her son inspected the NLR house, finding two minor problems, one where venting of the HVAC went through the roof. The seller had the vent flashed and corrected the other problem.
32. Plaintiff's son inspected the Gold Lake house and found nothing of concern except water pooling by the front door and he was disappointed that the boat house belonged to a neighbor.
33. The Hammetts inspected the house about a month later and found nothing of concern. (The pooling water has been a problem only once in the two years they lived in the house, and it was corrected by cleaning and installing new gutters.)
34. Before selling real estate, Plaintiff was a combination building inspector for a large county for 10 years and has "flipped" about 20 houses using investor's

money. Several of her represented buyers and investors were repeat clients.

Plaintiff also served as an expert in premises and construction defect cases. She felt comfortable that she was buying two good structures.

35. In the case that any issues did present, Hammett asked for a home warranty policy. Her agent Lora Blair suggested FAHW and the sellers agreed to pay, making Hammett the owner of the policy.

36. Unfortunately, within a week of moving into the Gold Lake house, the HVAC failed. It was freezing temperatures outside and the condenser had ice all over it.

37. There is no way Plaintiff could have discovered the malfunction during the inspection period, if it did begin before she purchased the home warranty. She had run the unit at the inspection, and it seemed to work well.

38. The heater did work after the icing problem but would likely deteriorate if it continued to run.

39. Defendant FAHW does not give a copy of their adhesion contract to the customer until after escrow closes and they are paid. The buyer never signs the contract. Mail was not being delivered to the NLR house properly, and Plaintiff never received that contract. The Conway house contract arrived a few days after escrow closed.

40. On the freezing cold morning of Sunday, April 8, 2018, there was ice on the condenser of the HVAC at the Conway house. Plaintiff believed this to indicate a lack of freon in the system and that the system might incur irreparable damage if she continued to run it. She called Defendant FAHW's customer care number.
41. They told Plaintiff that her inoperable heater would be treated as an emergency and they assigned the job of diagnosing and repairing it to Defendant Smartcool.
42. A neighbor dropped by the Plaintiff's house and said her daughter dispatched companies for home warranty claims. The neighbor said her daughter saw plaintiff's street name on a claim and called her mother to see if she knew Hammett. The neighbor forwarded advice from her daughter to make a check-up call to encourage FAHW's contractor to show up, because they often would not.
43. Later Plaintiff learned that the Neighbor's daughter worked for a third-party contractor to Defendant FAHW. The neighbor's daughter no longer works for that company but has not been able to talk directly to Plaintiff, because she was being treated for cancer.

44. When Hammett called them, Smartcool's answering service confirmed that the HVAC company would be to the plaintiff's home on Sunday, April 8, to fix the unit. The plaintiff stayed home in freezing temperatures all day. Defendant Smartcool's technician did not show up. They did not call.
45. On Monday, April 9th, the plaintiff called First American Home Warranty. She was told that Defendant Smartcool did not make calls on week-ends – ever!
46. Hammett asked for a different contractor. Nicholson Heating and Air was assigned. They could not get to the plaintiff's home until Tuesday, April 10.
47. Hammett read the contract for the first time on April 9th. There were several clauses that troubled her, including severe limitations to bringing any kind of suit against the provider and limiting damages.
48. Hammett also looked at online reviews of Defendant FAHW and found that the vast majority were complaints of receiving “the runaround” and often not having problems fixed.
49. Hammett, whose name was Laura Lynn before her marriage, wrote an email on the 9th and sent it to the proper email to cancel policies. The email sent from Plaintiff's cell phone said:

“To First American,

"I am requesting a refund on policy number 1055507801. My phone number is (760)966-6000. Address 3900 Glenmere Rd, North Little Rock, AT(sic), 72116.

"The reason I am cancelling is that I have lost confidence in your company because of the poor response on a claim on another house I own. That policy is 10558900301 on 16 Gold Lake Club Road, Conway, AT(sic), 72032. Both First American and the original contractor assigned lied to me and led me to believe restoring heat to my home was an emergency priority. In actuality, the company assigned never works on weekends and they did not make me first in the morning on Monday, as promised when I called them late Sunday evening to see where they were.

"I will wait to cancel the Gold Lake Club property if my claim is denied for some reason.

"It would show good faith on your company's part to waive the proration on Glenmere which went into effect 37 days ago. Because I did not make any claim in that period, I could not know that First American would leave me without heat for over 14 hours and be so deceptive that I did not even buy a space heater to get me through the frigid night.

"Thank you,

"Laura Lynn"

50. The policy with no claims was cancelled and a refund made less a "processing fee".

51. First American acted as if they were going to honor the HVAC claim and did not confirm or deny cancellation of the Gold Lake Club policy explicitly.
52. It appears it was Defendant FAHW's intention to fix the Plaintiff's HVAC at that time, but only if it could be repaired, not replaced. If the unit needed replacement, as it did because parts are no longer available for repair, Defendant FAHW had no intention of replacing. They did not tell Plaintiff this, but by their actions and reports that this was habitual for them, Plaintiff eventually came to believe it to be true.
53. For instance, in *Diaz v. First American Home Buyers Protection Corporation* (previous name of FAHW), U.S. District Court, S.D. Cal case no. 09-CV-00775¹ in their Third Motion to Dismiss at 8, FAHW objects to a class action on the basis that it would necessitate "tens or hundreds of thousands, of mini trials." They are aware of that many complaints.
54. On June 10, 2018 Plaintiff wrote a second email to the cancellation department as follows:

"To First American,

¹ Case No. 09-CV-00775 was consolidated with 13-CV-01585, *Carrera v. First American Buyer's Protection Corporation* and settled 3/30/2018 after 9 years of litigation. Class certification was denied at the District Court and the denial was affirmed by the Ninth Circuit Court of Appeals. Because it is so difficult to get class certification and their contract limits damages, FAHW has no incentive to change their malicious and dangerous behavior. The unique situation in this case, that the contract was rescinded and a second agreement formed, gives Hammett the unique opportunity to hold FAHW accountable.

“After receiving the following email from me, First American did cancel policy 1055507801 and issued a full refund. Thank you for that.

“Unfortunately, fraudulent and conniving First American employees decided to not ever replace or repair my unit, but did not inform me of the denial of the claim. Instead they added fraudulent statements to the contractor's portal log and were adamant that the problem was fixed about April 10 and subsequent failure was a new claim. I have volumes of documentary and testimonial evidence as to this situation.

“Please consider the contract rescinded as of the time that First American should have told me they were denying my claim for repair or replace of the HVAC. I clearly stated that was my intent in the sentence ‘I will wait to cancel the Gold Lake Club property if my claim is denied for some reason.’ All actions of First American subsequent to when I should have been informed of the denial are actions taken outside the contract and section 6 of the limits of liability does not apply.

“Please set the issue of whether First American was required to repair or replace my HVAC for binding arbitration as per the resolution of disputes clause in the contract.

“Please have counsel contact me to discuss resolution of issues that occurred after my intended rescission of the contract, including but not limited to torts of fraud and misrepresentation, intentional infliction of emotional distress, loss of ability to conduct my usually

lucrative business, health and welfare issues caused when Ms. Martinez of First American tricked me into staying home with the air conditioning off for several extremely hot days, and for causing me and other inhabitants of my home to live in substandard conditions instead of denying my claim timely and allowing me to get it fixed and then be reimbursed through binding arbitration.

“Thank you,

“Laura Lynn”²

55. Plaintiff errantly referred to “section 6” of the contract, when she meant

“section 4”. The content of section 4 is as enumerated in the list of issues.

56. The effect of the rescission was two-fold.

57. Pre-rescission, by fraudulent concealment of their common practice of denying claims in bad faith and failure to provide the adhesion contract prior to purchase FAHW induced the owner of the policy to obtain coverage from them rather than a reputable company.

58. This leaves liability for fixing problems that come up before the rescission with FAHW.

59. After the rescission, any contract formed between the parties, whether written, verbal or implied becomes the effective agreement.

² The NLR house contract was cancelled. The Gold Lake Club house contract was rescinded, as if it never existed, a different agreement was made and therefore the arbitration clause is not in effect.

60. Here, Hammett offered to let FAHW keep the money paid for her policy if they promised they would fix the HVAC and any other issues without the objectionable limitations inserted in the adhesion contract.
61. FAHW through their employees and contractors agreed explicitly and implicitly.
62. On April 10, 2018 Defendant Nicholson sent technicians to Plaintiff's home. They recharged the freon and said the heat strips melted and would need to be replaced.
63. On April 23 at 8 a.m., a Nicholson employee called the plaintiff and said the part was on order, but "a challenge to find." Further, the Nicholson employee told the plaintiff they would call her with an ETA when they knew more.
64. On April 24, Jason from Defendant Nicholson called the plaintiff and left a voice mail that the parts were ordered from the manufacturer, York, and he would call when they came in.
65. About May 4, a Defendant Nicholson employee called the plaintiff and set an appointment to install the parts on Monday, May 7.
66. On May 7, a woman from Nicholson called the plaintiff and said the wrong parts were sent and they would reschedule when the right parts came in. The plaintiff expressed concern because the HVAC made lots of noise, even though

it was not on. The female representative at Nicholson said she would send a technician to listen to it that day.

67. A technician from Defendant Nicholson stopped by, listened to the unit and ensured the plaintiff that it was still safe to run it.

68. About May 25, the plaintiff called Defendant FAHW. It was extremely hot and humid but the air conditioner kept “freezing”. It would not work.

69. Defendant FAHW employees supposedly looked into the situation. They concocted this story: They said the unit was fixed on April 10 and the job was “completed”. They said Nicholson stopped by on May 7 to listen to the noise.

70. The written communication log was later altered to delete the event of dispatch on May 7.

71. On May 25, Defendant Nicholson logged the problem as being a second complaint and a “pre-existing condition”.

72. A Nicholson employee told the plaintiff that Defendant FAHW convinced Nicholson to make the fraudulent entry on the project log.

73. Hammett allowed Defendant FAHW to send a contractor to her home on two more days. FAHW instructed Hammett to keep the HVAC off until the technician arrived.

74. Each day, the plaintiff stayed at home, with the air conditioner off, even though it could cool the house to 81 degrees when on and waited.
75. Both days the contractor, Defendant Smartcool cancelled after plaintiff called to see where they were.
76. Finally, exhausted, tired of being lied to, worried about the health issues involved in staying in a hot, humid house, Plaintiff reached out to Home Depot. Plaintiff paid for the replacement of her unit with her own savings and is now forced to litigate to be reimbursed properly by First American.
77. During the period the house was 81 degrees or hotter, Plaintiff took proper precautions. She ran the fans in the house. She drank plenty of water. She cut back on physical activity, especially her daily yoga practice and daily hour-long walk.
78. Prior to this period, Plaintiff was an advanced student of yoga. She could balance on her hands with her legs in the air out to the side cross legged; she could do plow position with ease (plow is a forward fold but done in a supine position with legs folded at the hips back over the torso); she could sit in full lotus and forward fold in full lotus; she could do a Bird of Paradise standing balance with her arms and legs bound through each other. She also wore a loose

size 10 jeans and climbed the Manitou, Colorado mile high staircase just a year earlier.

79. During the time Hammett lived without proper heat and air conditioning, she suffered physically quite a bit.

80. Hammett could not do yoga in the hot, humid house.

81. Normally, walking would be uncomfortable in the heat, but Hammett knew she would be able to get her core temperature down when she was relaxing in the house afterwards. Not so while she had no air conditioning.

82. Hammett had just moved into the house and wanted to scrub down all the surfaces just to make sure there were no viruses lingering. She planned to pull up the old carpet in the bedroom downstairs and paint the concrete, but it was too hot. So, she lived with the residual from past inhabitants.

83. The upstairs is Plaintiff's office and yoga room. The Hammetts call it "Laura's She-shed". Plaintiff could not use the upstairs at all for a couple weeks because it was stifling hot.

84. Hammett was a pattern day trader in the equities market. This takes passionate concentration, which is difficult while one is suffering from heat-exhaustion.

85. Weight started creeping on to Hammett's 50 something year old body.

86. The Hammetts are usually affectionate, cuddling all the time they are together. But they could not even hold hands during the heat exhausting time. This made Hammett sad.
87. The evening Plaintiff finally replaced her air-conditioning, she and her then fiancé made love. Toward the end, he pushed her legs back into plow, as normal for them, and Plaintiff suffered excruciating pain through her lumbar region.
88. Hammett's muscles had tightened up during the period of forced inactivity. But for this forced inactivity and prolonged exposure to heat indexes over 100 degrees, Hammett would not be injured doing her customary activity.
89. In the case of Lee v. Louisiana Bd. of Trustees for State Colleges, 2016 WL 9460653, District Court of Louisiana, Nineteenth Judicial District, Parish of East Baton Rouge, a jury awarded \$2,529,229 to a man who was forced to run 4 miles in the same type heat conditions FAHW subjected the Hammetts to live in for several weeks.
90. Hammett could probably have gotten away with a lie if she said the injury occurred while cleaning the house, but Hammett tries to be completely honest. Hammett's delay in filing this complaint is partially due to the embarrassment of publication of such a private fact.

91. Mike Hammett suffered equally with Laura, working at a construction job, then coming home to unbearable heat. Plaintiff was anguished to think Mike Hammett was suffering physically to be able to spend time with her.
92. Plaintiff visited a licensed massage therapist (LMT) about six times. It seemed to help give Plaintiff some comfort and healing. But the LMT moved her office location, so Plaintiff tried several others.
93. Finally, Plaintiff found a chiropractor in Little Rock who advertised that she specialized in sport injuries. Plaintiff went to her, Elite Chiropractic, for about five adjustments. It was helpful, but quite a distance from Plaintiff's home.
94. Plaintiff has now found a chiropractor in Conway, Owen's Chiropractic. Dr. Owens and the three LMTs who work in her office are all healing, caring, intelligent people. Twice per week visits alternating massage with chiropractic adjustment and other modalities seems to be relieving some of the pain in Plaintiff's back and left hip.
95. She is still unable to fix properties, which entails bending, lifting and stretching.
96. Plaintiff now wears a size 17. She can walk and fish, but she cannot finish a beginner yoga practice.

97. Plaintiff is unable to perform household chores such as squatting down to sweep dirt into a dustpan. Plaintiff is just now able to lift her computer off the floor without excruciating pain. Plaintiff must sit down to put her pants on. She could surf and she could stand in a yoga tree position with her leg extended toward the sky at 45 degrees, hand hanging on to her foot before the injury accident caused by the Defendants. Putting her pants on standing up was easy.
98. During the time without air-conditioning, Plaintiff was unable to work on restoring a house she bought at the courthouse steps for cash in Saline County in February 2018. (Called the “Avilla Heights house”) She was occupied waiting for the HVAC guys to come to her Gold Lake house instead. Then she was injured perhaps permanently.
99. Because the Avilla Heights house was bought in foreclosure and an inspection could not be made, Plaintiff did not buy a home warranty on that house. She intended to do most of the work to restore the house herself, literally.
100. Instead, to mitigate damages, she partnered with another couple to do some of the work, but the work of fixing a house was too complex and demanding for them. Plaintiff shelved the project until her injuries healed.

101. Mike Hammett was retiring from construction to become a professional tournament bass fisherman. Because tournaments were cancelled due to the coronavirus, he returned to construction. Laura Hammett agreed to a joint venture on the Avilla Heights house with him. Because Arkansas is a common law marriage state, Laura Hammett is losing half the potential profit on the project technically.

102. Plaintiff's income is not uniform. She does not work on salary. Most of her income is from investments, mostly real estate, and is not realized on a bi-weekly basis, like a normal person. But Plaintiff earned over \$1.1 million in 2017 for the sale of a shopping center owned by an LLC in which Hammett is a shareholder. Her income for child support purposes was determined by the Court to be about \$36,000 *per month* in 2009. In 2018, Plaintiff earned almost nothing but her \$550 per month pension from her building inspection job, which was generated 20 years ago.

103. Attorney for Defendant FAHW called Plaintiff's income "speculative". But Plaintiff has a 100% success rate of earning a profit on real estate transactions over the last 30 years.

104. Plaintiff earned roughly 20% on her investment in the stock market in 2017. She traded only blue-chip companies with upslope rise in price per share

over the past five years. Still, understanding the inherent risk, Plaintiff sold all her stocks and put the money in real estate in January 2018.

105. In May 2018 Plaintiff put about \$300,000 into a brokerage account. The broker offered her unlimited free trades for two years. She intended to put the money into real estate again when she settled into the new home. That would include having a HVAC that worked.

106. Even though Hammett invested in only huge companies with excellent stock price history, that was much more speculative than real estate development.

107. She was also selling the NLR house because she offered to transfer title to her son and have him pay her for it in two years and her son did not want to buy such an expensive house. The NLR house sold for \$5,000 plus commissions more than Hammett paid a couple months earlier.

108. When the NLR house sold, Hammett could not take on any more real estate projects and put the full \$250,000 from that into stocks.

109. Hammett leveraged with margin buying power. This gave her more upside potential but created more risk if something crazy happened and blue-chip stocks like American Airlines, Carnival Cruise Lines and Boeing plummeted.

110. The market dropped subsequently, and Plaintiff did not want to take money out until it came back up. (The whole concept is “buy low, sell high.”)

111. On May 25, 2019, Hammett wrote a draft complaint for this case. She wrote: "Plaintiff may be forced to sell investments for a loss or lower profit than she was patiently waiting for if Defendant FAHW does not reimburse her the cost of the HVAC and loss of income soon."
112. A copy of the complaint was sent to FAHW. Hammett shared copies of tapes that are conclusive evidence of FAHW's bad faith and malice. Still FAHW would not take responsibility for their actions.
113. Unfortunately, the market crash in February and March 2020 caused the forced sale of Hammett's stock at a loss of \$500,000. If Hammett had just a little more money, about \$10,000, she could have held on and her portfolio already would have come back dramatically.
114. Hammett believes the defendants should lend her the money to buy back the portfolio she last sold, share for share, with a no interest, no payment loan that will be reimbursed to the defendants as the value of the shares reaches the pre-crash value.
115. In the time between purchasing the policy from Defendant FAHW, instead of from a reputable company, and discovering that Defendant FAHW had no intention of replacing the HVAC, Plaintiff's dishwasher broke down. The repair or replacement would have been covered by a reputable home

warranty policy company if Plaintiff were not fraudulently induced to buy from Defendant First American Home Warranty.

On the First Cause of Action for Fraudulent Inducement to Contract

(Against Defendant FAHW)

116. Plaintiff incorporates by reference the paragraphs above as though fully set forth herein.
117. Defendant FAHW through fraudulent marketing and advertising promised that if Plaintiff purchased her home warranty policy from them, as opposed to any other home warranty company, they would repair or replace a covered HVAC timely. This was a false representation.
118. Defendant FAHW knew the representations were false or knew that they did not have sufficient knowledge to make the representation. Plaintiff will show at trial that it is common practice for FAHW to refuse to provide the services they advertise.
119. FAHW does not make a home inspection before selling their policy. They do not require buyers to provide an inspection report and in this case, they did not accept the inspection made by buyer or the seller's disclosure statement when there was a covered malfunction claimed.

120. FAHW does not give the buyer a copy of the adhesion contract prior to close of escrow when the contracted service is purchased.
121. FAHW intended that the plaintiff would rely on the representation made in their marketing and advertising.
122. Plaintiff, relying justifiably on Defendant FAHW's representations, purchased her home warranty policy from Defendant FAHW, refraining from purchasing from another company.
123. Because of Plaintiff's reliance on defendant's promise, Plaintiff did not buy from a different company and get replacement or repair of her covered unit from a reputable home warranty company.
124. Defendant FAHW should be required to pay the full cost of replacing the HVAC unit and dishwasher.

On the Second Cause of Action for Promissory Estoppel and Fraud

(Against All Defendants)

125. Plaintiff incorporates by reference the paragraphs above as though fully set forth herein.
126. Defendant FAHW promised to repair or replace the Plaintiff's HVAC.

127. FAHW knew Hammett did not agree with the adhesion contract, particularly at page 12, Limits of Liability section 4 because Hammett told them verbally and in writing.
128. FAHW knew Hammett wanted to rescind the contract if they were not going to fix or replace the HVAC for any reason.
129. FAHW continued to promise to have contractors come out to the property, then break those promises.
130. Defendant FAHW should have reasonably expected the plaintiff to refrain from repairing or replacing her HVAC on her own in reliance on the promise.
131. Defendant Smartcool promised to come to the property to inspect and fix the HVAC on April 8, 2018 and then twice more. They did not perform.
132. Defendant Nicholson negligently told Hammett they were obtaining parts to fix the unit when parts were not available.
133. Defendants Nicholson and FAHW negligently did not contact Hammett when they found the parts were not available.
134. All defendants should have reasonably expected Plaintiff to wait for them to fix the HVAC.

135. On three days when there was extreme heat FAHW told Hammett to stay home with the air-conditioner off to wait for service providers who did not show up.
136. Defendants should have reasonably expected Hammett to stay home on those days without air-conditioning.
137. Instead of admitting to their negligence, the defendants FAHW and Nicholson altered business documents and made false claims that the HVAC was already fixed and there was a second claim. The defendants conspired to claim the damage was pre-existing.
138. The defendants acted with reckless disregard for the health and safety of the plaintiff.
139. The plaintiff stayed home without heat or air-conditioning for at least four days and many more with impaired air-conditioning, causing discomfort, heat exhaustion, a resulting injury that may be permanent, diminished performance at equity investing and total disability to restore buildings.
140. During the almost two months of impaired HVAC in her home Hammett suffered inability to do her daily yoga practice, leading to a loss of mobility and range of motion, and ultimately to an acute injury to her lumbar region when she tried to partake in customary activity; inability to concentrate properly for

her intense work day-trading; a period of loss of use of her upstairs which was so oppressively hot no one could stand in there more than a minute; a period of loss of the affection of her fiancé whom she married in April 2019.

141. The loss of affection is not a loss of conjugal relations, which would require that the Hammetts were already married when the injury occurred. It is not her partner's body that is impaired. It is her own.

142. Laura Hammett likes physical affection as much as doing yoga, hiking and other athletics. All these pass-times were taken from Hammett by the defendants' negligence, fraud and broken promises.

143. Injustice can be avoided only by enforcement of the promise, holding Defendants liable for collateral damage caused while they refused to fulfill their promise.

Third Cause of Action for Outrage

(Against FAHW)

144. Plaintiff incorporates by reference the paragraphs above as though fully set forth herein.

145. FAHW advertises that they give the customer "peace of mind". The home warranty company should realize that the stressful situation they put Hammett in would cause the opposite of peace of mind- severe emotional distress.

146. FAHW should and did realize leaving someone without heat for more than 24 hours may cause them to fall ill and would cause deep self-concern that they would fall ill or even freeze to death.
147. FAHW should have known that leaving a person without air-conditioning for weeks at a time while the heat index was over 100 degrees might cause heat exhaustion and maybe even death.
148. Plaintiff had to worry about herself and Mike Hammett, the love of her life.
149. The defendant's conduct was extreme, outrageous, and utterly intolerable in a civilized community. FAHW employees conspired with each other and with Nicholson to alter business records and denied coverage based on fabricated "preexisting conditions", but only after leaving plaintiff without heat and air for several weeks.
150. This was not an isolated incident. It is common practice for FAHW.
151. Plaintiff was extremely upset by FAHW's actions. It is two years later, plaintiff's back still aches and so she is constantly reminded of the unethical, maybe illegal, reckless actions of FAHW.
152. Whenever the weather starts getting hot, plaintiff is reminded of those physically miserable weeks in her new home when she could barely even hold Mike's hand for the profuse sweating.

153. When the Hammetts have conjugal relations, they are appropriately careful of Laura's back. But Laura still has a moment of panic when Mike seems anything like he will push her legs back.
154. Hammett has a sister who drinks too much and makes bizarre phone calls and emails to Hammett and others. Hammett is suing her sister to make her stop this defamation, IIED and for a business dispute.
155. Hammett told FAHW's attorney about the lawsuit. First, because it gave Hammett more reason to settle and she offered to take far less than the case is worth. One lawsuit is full time work for the untrained pro se litigant. The other reason is that coincidentally, one opposing counsel on the defamation suit was Diaz's attorney on the Diaz v. FAHW case. Hammett found this interesting.
156. There is evidence that FAHW's attorney told Hammett's sister about the trouble the Hammetts had during intercourse. If a jury agrees that it was FAHW's agent who disclosed this private information to unconcerned third parties, before Hammett decided to file the complaint, that invasion of privacy is even more outrageous conduct.
157. No reasonable person should be expected to endure this aggravation and distress, especially after paying for "peace of mind".

158. The Department of Insurance said FAHW is not subject to insurance regulations in Arkansas or this would be called an action for insurance bad faith.

Wherefore, Plaintiff prays for Remedies as herein set forth.

On the First Cause of Action for Fraud in the Inducement Against First American Home Warranty Corporation:

159. For general damages in the amount of \$8,668.89, the cost of replacing the HVAC, exclusive of interest;
160. For the cost of a new dishwasher;
161. For costs of litigation;
162. And for such other relief as the Court deems appropriate.

On the Second Cause of Action for Promissory Estoppel Against All Defendants Jointly and Severally

163. Compensatory damages for loss of income in an amount to be determined by jury;
164. Compensatory damages or a loan as described in paragraph 114 above.
165. Compensatory damages for medical expenses in an amount to be determined at trial;

166. Compensatory damages for physical pain and suffering to be determined at trial;
167. Compensatory damages for emotional distress to be determined at trial;
168. For costs;
169. And for such other relief as the Court deems appropriate.

On the Third Cause of Action for Outrage Against FAHW

170. Punitive damages enough to deter the Fortune 500 subsidiary from acting the same way toward other citizens of Arkansas and to let them know malice, the disregard for truth, will not be tolerated.

Trial by Jury is Demanded.

Dated: May 28, 2020

/s/ Laura Hammett



Laura Hammett, Plaintiff in *pro se*
16 Gold Lake Club Road
Conway, Arkansas 72032
(760) 966-6000
Bohemian_books@yahoo.com

Verification

I, Plaintiff Laura Hammett, state that the contents of the pleading above are true to my knowledge, except as to those matters stated on information and belief, and as to those matters, I believe them to be true.

Dated May 28, 2020

/s Laura Hammett 

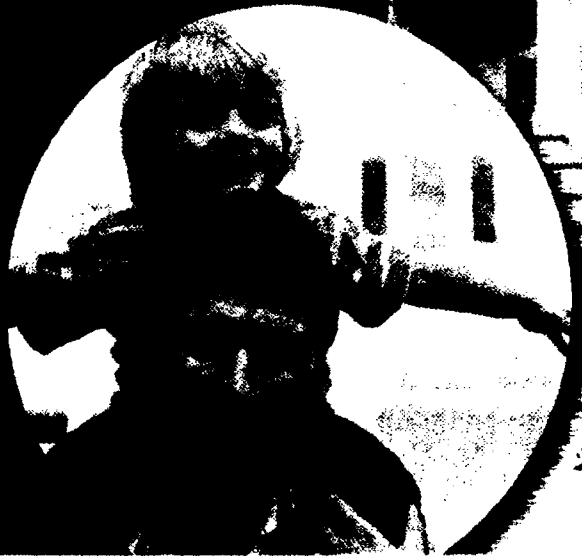
Laura Hammett, Plaintiff in *pro se*

Thank you for choosing First American Home Warranty

Your
Contract
And
Home
Warranty
Guide



You've got me!



**First American
Home Warranty™**



*Fahw Appliances
Home Warranty*

How to Use Your Home Warranty:

- 1.** Visit **fahw.com** or call **800.992.3400** anytime a covered item fails.
- 2.** An independent local service technician will call and arrange a convenient time to come to your home and diagnose the problem.
- 3.** At the time of the appointment you'll pay the service call fee.

It's that easy!



Welcome!

April 9, 2018

Contract #: 10558900301

Dear LYNN Family,

Congratulations on the purchase of your new home and welcome to the First American family.

We're proud to inform you that your property at **16 GOLD LAKE CLUB RD** is now covered by a First American home warranty plan - *and you are now protected against unforeseen system and appliance breakdowns.*

For over 30 years, our company has offered homeowners protection for their home systems and appliances. We have grown to be one of the largest home warranty companies in the nation. First American Home Warranty is here to offer you peace of mind when covered breakdowns occur and to provide you with quality service when you need us the most.

Make sure to remove your First American Customer Service Card located on the back cover of this Home Warranty Guide and keep it in a safe, convenient place. It has all the information you need to request service.

Please review your contract to understand more about the terms, conditions, service fees and specific coverage of your plan.

Welcome to our family. We look forward to serving you.

Sincerely,



Jeff Powell
President
First American Home Warranty

First American Home Warranty
P.O. Box 8030, West Hills, CA 91309

Home Warranty Summary

Contract Number: 10558900301

Contract Effective Date: March 30, 2018

Contract Holder:
LYNN

Covered Address:
16 GOLD LAKE CLUB RD
CONWAY, AR 72032

Options Ordered:
None

Source of Order: RACHEL ACKLIN

The Contract holder may purchase optional coverage up to 60 days from Contract Effective Date. Such coverage is not effective until payment is received by Company and coverage terminates upon Contract expiration.

Cost of Contract: \$430.00

SHOULD YOU NEED SERVICE

PLEASE READ THIS CONTRACT CAREFULLY and then place your claim at www.firstam.com/warranty or by calling (800) 992-3400.

Have your Contract number, make or model of covered item and complete street address available. You will pay the \$75 service call fee when the independent contractor (Contractor) arrives at your home (one time service call fee per Contract for Optional Subterranean Termite Treatment is \$200).

IMPORTANT

This is a Contract for repair or replacement of specified appliances and home systems. This Contract covers only the items specifically identified in this Contract as covered and excludes all others. Items are not covered unless they are in safe working order at the start of coverage. To be covered, items must be installed for diagnosis and located within the confines of the perimeter of the foundation of the primary living quarters or garage (except well pump, septic tank, sewage ejector pump, pressure regulator, air conditioning and pool/spa equipment; when applicable). This Contract provides coverage for unknown defects if the defect is not detectable through visual inspection or simple mechanical test (excluding renewal and non-real estate transaction customers). Items include malfunctioning systems and appliances due to lack of maintenance, rust, corrosion and chemical or sedimentary build-up. Unless specified otherwise, any dollar limit mentioned is in the aggregate. First American Home Warranty Corporation (Company) will not reimburse you for services performed without prior approval.

COVERAGE TIME AND RENEWAL

You must report defects or malfunctions to Company during the term of this Contract.

1. Coverage begins on Contract Effective Date and continues for 12 months, except;
A. Basic Seller's Coverage and Seller's Options (if elected) starts upon receipt of Contract number and continues until expiration of the initial listing period not to exceed 180 days or until close of sale or listing cancellation (whichever is first). Seller's Coverage may be extended at the discretion of Company.
2. Payment is due at close of sale and must be received by Company within 30 days.
3. Offer for future coverage is at Company's sole discretion. You will be notified of rates and terms for continuation of coverage.

BASIC CONTRACT COVERAGE

Company shows examples of components "not covered" to assist your understanding of this Contract; and examples are not exhaustive. It is also important to review Limits of Liability as well as the Options Ordered section of your Home Warranty Summary page.

PLUMBING - COVERED

- ✓ Pressure regulators
- ✓ Circulating hot water pump
- ✓ Whirlpool bath motor, pump and air switch assemblies
- ✓ Permanently installed sump pumps (ground water only)
- ✓ Valves: shower, tub, diverter, riser, angle stop and gate valves
- ✓ Leaks and breaks of water, drain, gas, vent or sewer lines (except caused by freezing)
- ✓ Toilet tanks, bowls and mechanisms (replaced with white builder's standard as necessary)

NOT COVERED: FIXTURES, FAUCETS, FILTER, SHOWER HEAD, SHOWER ARM, SHOWER ENCLOSURE AND BASE PAN, CAULKING AND GROUTING, SEPTIC TANK, HOSE BIBBS, FLOW RESTRICTIONS IN FRESH WATER LINES, WATER CONDITIONING EQUIPMENT, SEWAGE EJECTORS, SAUNAS OR STEAM ROOMS, WHIRLPOOL JETS AND FIRE SUPPRESSION SYSTEMS.

NOTE: COMPANY IS ONLY RESPONSIBLE FOR PROVIDING ACCESS FOR COVERED PLUMBING REPAIRS THROUGH UNOBSTRUCTED WALLS, FLOORS OR CEILINGS AND WILL RETURN THE OPENING TO A ROUGH FINISH. COVERAGE FOR DIAGNOSIS, ACCESS, REPAIR OR REPLACEMENT OF ITEMS LOCATED IN OR BELOW A CONCRETE SLAB AND ITEMS ENCASED IN OR COVERED BY CONCRETE IS LIMITED UP TO \$500.

PLUMBING STOPPAGES – COVERED

- ✓ Clearing of stoppages in sink, tub, shower drains and toilets. Clearing of sewer and mainline stoppages (including hydrojetting if stoppage is unable to be cleared with cable) to 125 feet of point of access where ground level cleanout is existing. Clearing of lateral drain lines to 125 feet from point of access including accessible cleanout, p-trap, drain or overflow access point.

NOT COVERED: STOPPAGES CAUSED BY FOREIGN OBJECTS, ROOTS, COLLAPSED OR BROKEN LINES OUTSIDE THE FOUNDATION, ACCESS TO DRAIN OR SEWER LINES FROM ROOF VENT AND COSTS TO LOCATE, ACCESS OR INSTALL A GROUND LEVEL CLEANOUT.

WATER HEATER (Includes tankless water heaters) – COVERED

- ✓ All parts, except;

NOT COVERED: HOLDING OR STORAGE TANKS, FLUES AND VENTS, FUEL STORAGE TANKS AND SOLAR EQUIPMENT.

NOTE: COVERAGE FOR DIAGNOSIS, ACCESS, REPAIR OR REPLACEMENT OF ANY GEOTHERMAL OR WATER SOURCE HEAT PUMP, GLYCOL, HEATED WATER, STEAM OR WATER HEATER/HEATING COMBINATION UNIT IS LIMITED UP TO \$1,500.

ELECTRICAL – COVERED

- | | |
|-------------------------|---|
| ✓ Plugs | ✓ Wiring |
| ✓ Conduit | ✓ Junction boxes |
| ✓ Telephone wiring | ✓ Switches and fuses |
| ✓ Panels and sub panels | ✓ Circuit breakers (including ground fault) |

NOT COVERED: DOOR BELLS, COMPUTER, AUDIO, VIDEO, INTERCOM, FIXTURES, ALARM – AND ALL ASSOCIATED WIRING OR CABLES. INADEQUATE WIRING CAPACITY, SENSOR, RELAY, LOW VOLTAGE SYSTEMS, POWER SURGES, TIMED CIRCUITS, PHONE JACKS AND WIRING WHICH IS THE PROPERTY OF THE PHONE COMPANY.

NOTE: COMPANY IS ONLY RESPONSIBLE FOR PROVIDING ACCESS FOR COVERED ELECTRICAL REPAIRS THROUGH UNOBSTRUCTED WALLS, FLOORS OR CEILINGS AND WILL RETURN THE OPENING TO A ROUGH FINISH.

KITCHEN APPLIANCES – COVERED

- | | |
|-------------------------------|----------------------------------|
| ✓ Dishwasher | ✓ Trash Compactor |
| ✓ Garbage Disposal | ✓ Oven/Range/Cooktop |
| ✓ Instant Hot Water Dispenser | ✓ Microwave Oven (built-in only) |

NOT COVERED: ROTISSERIES, LIGHTS, KNOBS, DIALS, RACKS, BASKETS, ROLLERS, REMOVABLE TRAYS, REMOVABLE BUCKETS, DOOR GLASS, INTERIOR LINING, LOCK ASSEMBLIES, MAGNETIC INDUCTION COOKTOPS, MEAT PROBE ASSEMBLIES AND CLOCKS (UNLESS THEY AFFECT THE PRIMARY FUNCTION OF THE UNIT).

GARAGE DOOR OPENERS – COVERED

- | | | |
|-------------|-----------------|--------------------------------|
| ✓ Motor | ✓ Switches | ✓ Carriage |
| ✓ Capacitor | ✓ Receiver unit | ✓ Track assembly ✓ Push arm |

NOT COVERED: REMOTE TRANSMITTERS, ADJUSTMENTS, DOORS, HINGES AND SPRINGS.

CENTRAL VACUUM SYSTEM – COVERED

- ✓ All parts, except;

NOT COVERED: HOSES AND ACCESSORIES WHICH ARE REMOVABLE.

NOTE: COMPANY IS NOT RESPONSIBLE FOR GAINING OR CLOSING ACCESS TO FLOORS, WALLS OR CEILINGS TO LOCATE THE MALFUNCTION OR TO EFFECT REPAIR OR REPLACEMENT.

ATTIC AND EXHAUST FANS – COVERED

- ✓ All parts.

CEILING FANS – COVERED

- ✓ All parts, except;

NOT COVERED: LIGHT KITS AND REMOTE TRANSMITTERS.

**ADDITIONAL COVERAGE FOR BUYER
AND OPTIONAL COVERAGE FOR SELLER**

NOTE FOR SELLER: Heating, Central Air Conditioning and Ductwork coverage is optional for the Seller at an additional charge. If elected, Company will pay up to a combined maximum limit of \$1,500 during Seller's Coverage period for such coverage.

HEATING – COVERED

- | | |
|------------------------------------|---------------------------------|
| ✓ Heat pump | ✓ Radiators |
| ✓ Heating elements | ✓ Gas valves to furnace |
| ✓ Baseboard convectors | ✓ Gas, electrical, oil furnaces |
| ✓ Hydronic circulating pumps | ✓ Thermostats (including base) |
| ✓ Heat pump refrigerant recharging | |

NOT COVERED: AUXILIARY SPACE HEATERS, CABLE HEAT, MINI-SPLIT DUCTLESS SYSTEMS (INCLUDING HEAT PUMP VERSIONS), HUMIDIFIER/DEHUMIDIFIER SYSTEMS OR ACCESSORIES, FILTERS (INCLUDING ELECTRONIC AIR CLEANERS), REGISTERS, FUEL STORAGE

TANKS, HEAT LAMPS, FIREPLACES AND KEY VALVES, BASEBOARD CASINGS AND GRILLS, CHIMNEYS, FLUES AND VENTS, UNDERGROUND OR OUTSIDE COMPONENTS AND PIPING FOR GEOTHERMAL OR WATER SOURCE HEAT PUMPS, WELL PUMPS AND WELL PUMP COMPONENTS FOR GEOTHERMAL OR WATER SOURCE HEAT PUMPS, GRAIN, PELLET, OR WOOD HEATING UNITS (EVEN IF ONLY SOURCE OF HEATING), ELECTRONIC, COMPUTERIZED, PNEUMATIC AND MANUAL SYSTEM MANAGEMENT AND ZONE CONTROLLERS AND HEAT PUMP REFRIGERANT RECAPTURE, RECLAIM AND DISPOSAL.

NOTE:

- ♦ COVERAGE FOR DIAGNOSIS, ACCESS, REPAIR OR REPLACEMENT OF ANY GEOTHERMAL OR WATER SOURCE HEAT PUMP, GLYCOL, HEATED WATER, STEAM OR WATER HEATER/HEATING COMBINATION UNIT IS LIMITED UP TO \$1,500.
- ♦ IF COMPANY DETERMINES THAT A PACKAGE UNIT OR THE CONDENSER OF A CENTRAL AIR CONDITIONING OR HEAT PUMP SPLIT SYSTEM MUST BE REPLACED, COMPANY WILL REPLACE THE UNIT WITH A UNIT THAT MEETS CURRENT FEDERAL, STATE OR LOCAL GOVERNMENT EFFICIENCY STANDARDS. THIS NOTE ALSO APPLIES TO CENTRAL AIR CONDITIONING.

CENTRAL AIR CONDITIONING – COVERED

- ✓ Refrigeration System (Includes heat pump)
 - Thermostats
 - Refrigerant lines
 - Liquid and suction line dryers
 - Fuses, breakers, disconnect boxes and wiring
 - Evaporator coils (including thermostatic expansion valves)
 - Condensing unit
 - Air handling unit
 - Refrigerant recharging
- ✓ Evaporative Cooler
- ✓ Built-in Electric Wall Units

NOT COVERED: MINI-SPLIT DUCTLESS SYSTEMS (INCLUDING HEAT PUMP VERSIONS), HUMIDIFIER/DEHUMIDIFIER SYSTEMS OR ACCESSORIES, REGISTERS, GRILLS, FILTERS (INCLUDING ELECTRONIC AIR CLEANERS), GAS AIR CONDITIONERS, WINDOW UNITS, UNDERGROUND OR OUTSIDE PIPING AND COMPONENTS FOR GEOTHERMAL OR WATER SOURCE HEAT PUMPS, COOLER PADS, ROOF JACKS OR STANDS, ELECTRONIC, COMPUTERIZED, PNEUMATIC AND MANUAL SYSTEM MANAGEMENT AND ZONE CONTROLLERS AND REFRIGERANT RECAPTURE, RECLAIM AND DISPOSAL.

NOTE:

- ♦ COVERAGE FOR DIAGNOSIS, ACCESS, REPAIR OR REPLACEMENT OF ANY GEOTHERMAL OR WATER SOURCE HEAT PUMP, GLYCOL, HEATED WATER, STEAM OR WATER HEATER/HEATING COMBINATION UNIT IS LIMITED UP TO \$1,500.
- ♦ IF COMPANY DETERMINES THAT A PACKAGE UNIT OR THE CONDENSER OF A CENTRAL AIR CONDITIONING OR HEAT PUMP SPLIT SYSTEM MUST BE REPLACED, COMPANY WILL REPLACE THE UNIT WITH A UNIT THAT MEETS CURRENT FEDERAL, STATE OR LOCAL GOVERNMENT EFFICIENCY STANDARDS.
- ♦ WHEN REPLACING A CENTRAL AIR CONDITIONING OR HEAT PUMP SPLIT SYSTEM, COMPANY WILL REPLACE ANY COVERED COMPONENT AS WELL AS MODIFY THE PLENUM, INDOOR ELECTRICAL, AIR HANDLING TRANSITION AND DUCT CONNECTIONS AS NECESSARY TO MAINTAIN COMPATIBILITY AND OPERATING EFFICIENCY AS REQUIRED BY THE MANUFACTURER OF THE REPLACEMENT UNIT, INCLUDING THE INSTALLATION OF THERMOSTATIC EXPANSION VALVES.

DUCTWORK - COVERED

- ✓ Ductwork from the heating or cooling unit to the connection at register or grill.

NOT COVERED: GRILLS AND REGISTERS, IMPROPERLY SIZED DUCTWORK, INSULATION, DAMPERS AND DUCTWORK WHERE ASBESTOS IS PRESENT.

NOTE: COMPANY IS ONLY RESPONSIBLE FOR PROVIDING ACCESS FOR COVERED DUCTWORK REPAIRS THROUGH UNOBSTRUCTED WALLS, FLOORS OR CEILINGS AND WILL RETURN THE OPENING TO A ROUGH FINISH. COVERAGE FOR DIAGNOSIS, ACCESS, REPAIR OR REPLACEMENT OF DUCTWORK LOCATED IN OR BELOW A CONCRETE SLAB AND ITEMS ENCASED IN OR COVERED BY CONCRETE IS LIMITED UP TO \$500.

OPTIONAL COVERAGE FOR BUYER AND SELLER

To view options purchased, please go to Options Ordered section of your Home Warranty Summary page that precedes this Contract.

NOTE FOR SELLER: The following coverage is optional for the Seller at an additional charge.

NOTE FOR BUYER: The Contract holder may purchase optional coverage up to 60 days from Contract Effective Date. Such coverage is not effective until payment is received by Company and coverage terminates upon Contract expiration.

SUBTERRANEAN TERMITE TREATMENT - COVERED (If purchased)

- ✓ Treatment for subterranean termite infestation.

NOT COVERED: INFESTATION IN DECKS OR FENCING OR ANY INFESTATION OUTSIDE THE CONFINES OF THE FOUNDATION OF THE HOME OR GARAGE, REPAIR OF DAMAGE CAUSED BY SUBTERRANEAN TERMITES.

CONTRACT HOLDER WILL PAY A ONE TIME \$200 SERVICE CALL FEE PER CONTRACT TO OUR CONTRACTOR FOR SUBTERRANEAN TERMITE TREATMENT. REPEAT VISITS ARE FREE OF CHARGE. ALL WORK WILL BE PERFORMED BY A LICENSED STRUCTURAL PEST CONTROL CONTRACTOR.

OPTIONAL COVERAGE

NOTE FOR SELLER: The following optional coverage is not available.

NOTE FOR BUYER: The Contract holder may purchase optional coverage up to 60 days from Contract Effective Date. Such coverage is not effective until payment is received by Company and coverage terminates upon Contract expiration. To view options purchased, please go to Options Ordered section of your Home Warranty Summary page that precedes this Contract.

POOL/SPA EQUIPMENT - COVERED (If purchased)

- | | |
|------------------------------|--|
| ✓ Filters | ✓ Pumps |
| ✓ Timers | ✓ Valves |
| ✓ Circuit board | ✓ Heating units |
| ✓ Pump motors | ✓ Salt water cell |
| ✓ Pool sweep motor and pumps | ✓ Above ground plumbing and electrical |

NOT COVERED: ALL CLEANING EQUIPMENT, INCLUDING POP UP HEADS, TURBO VALVES, POOL SWEEPS, LINERS, LIGHTS, STRUCTURAL DEFECTS, SOLAR EQUIPMENT, INACCESSIBLE COMPONENTS, HUMIDIFIER/DEHUMIDIFIER SYSTEMS OR ACCESSORIES, JETS AND RESPECTIVE PARTS AND COMPONENTS, FUEL STORAGE TANKS, FILL VALVES, ELECTRONIC, COMPUTERIZED, PNEUMATIC AND MANUAL SYSTEM MANAGEMENT AND ZONE CONTROLLERS, DISPOSABLE FILTRATION MEDIA, CHLORINATORS, OZONATORS AND OTHER WATER CHEMISTRY CONTROL EQUIPMENT AND MATERIALS, AUXILIARY, NEGATIVE EDGE, WATERSLIDE, WATERFALL, ORNAMENTAL FOUNTAIN AND THEIR PUMPING AND MOTOR SYSTEMS OR ANY OTHER PUMP OR MOTOR THAT DOES NOT CIRCULATE WATER FROM THE POOL OR SPA DIRECTLY INTO THE MAIN FILTRATION SYSTEM AS ITS PRIMARY FUNCTION, HEAT PUMPS, SALT, PANEL BOX, REMOTE CONTROLS AND DIALS.

NOTE: COVERAGE FOR SALT WATER POOL/SPA EQUIPMENT SALT WATER CELL AND CIRCUIT BOARD IS LIMITED UP TO \$1,500.

KITCHEN REFRIGERATOR (Limit up to \$2,500) – COVERED (If purchased)

- ✓ All parts, except;

NOT COVERED: INSULATION, RACKS, SHELVES, DRAWERS, TRACKS, HANDLES, LIGHTS, ICE CRUSHERS, BEVERAGE DISPENSERS AND THEIR RESPECTIVE EQUIPMENT, INTERIOR THERMAL SHELLS, FOOD SPOILAGE, STAND ALONE FREEZERS, REFRIGERATORS LOCATED OUTSIDE KITCHEN AREA AND REFRIGERANT RECAPTURE, RECLAIM AND DISPOSAL.

NOTE:

- ♦ COVERAGE IS FOR ANY ONE OF THE FOLLOWING TYPES OF KITCHEN REFRIGERATOR/FREEZER UNITS: A BUILT-IN KITCHEN REFRIGERATOR/FREEZER UNIT, A BUILT-IN COMBINATION OF AN ALL REFRIGERATOR UNIT AND AN ALL FREEZER UNIT, OR A FREE STANDING KITCHEN REFRIGERATOR/FREEZER.
- ♦ REPAIR OR REPLACEMENT OF ICE MAKERS WILL ONLY BE COMPLETED WHEN PARTS ARE AVAILABLE.

ADDITIONAL REFRIGERATION (Limit up to \$1,000) – COVERED (If purchased)

This option provides coverage for the following with a combined total of four appliances: additional refrigerator, wet bar refrigerator, wine refrigerator, free standing freezer and free standing ice maker.

- ✓ All parts of a refrigerator (including wet bar and wine refrigerator) and free standing freezer, except;

NOT COVERED: KITCHEN REFRIGERATOR, INSULATION, RACKS, SHELVES, DRAWERS, TRACKS, HANDLES, LIGHTS, ICE MAKERS, ICE CRUSHERS, BEVERAGE DISPENSERS AND THEIR RESPECTIVE EQUIPMENT, INTERIOR THERMAL SHELLS, FOOD SPOILAGE AND REFRIGERANT RECAPTURE, RECLAIM AND DISPOSAL.

- ✓ Free standing ice maker:
All parts which affect the primary function of the ice maker and water dispenser, except;

NOT COVERED: FILTERS, REMOVABLE COMPONENTS WHICH DO NOT AFFECT THE PRIMARY FUNCTION, INTERIOR THERMAL SHELLS, INSULATION AND REFRIGERANT RECAPTURE, RECLAIM AND DISPOSAL.

CLOTHES WASHER AND DRYER – COVERED (if purchased)

- ✓ All parts, except;

NOT COVERED: PLASTIC MINI-TUBS, SOAP DISPENSERS, FILTER AND LINT SCREENS, KNOBS AND DIALS, VENTING AND DAMAGE TO CLOTHING.

WELL PUMP (Limited to one well pump per home; Limit up to \$1,500) – COVERED (if purchased)

- ✓ All parts of well pump utilized exclusively for domestic use, except;

NOT COVERED: WELL CASINGS, BOOSTER PUMPS, PIPING OR ELECTRICAL LINES, HOLDING, PRESSURE OR STORAGE TANKS, REDRILLING OF WELLS, DAMAGE DUE TO LACK OF WATER, TAMPERING, WELL PUMP AND WELL PUMP COMPONENTS FOR GEOTHERMAL OR WATER SOURCE HEAT PUMPS, IMPROPER INSTALLATION AND ACCESS TO REPAIR WELL PUMP SYSTEM.

SEPTIC TANK PUMPING/SYSTEM (Limit up to \$500 for tank system) – COVERED (if purchased)

Pumping

- ✓ One time pumping per Contract if the stoppage is due to septic tank backup, except;

NOT COVERED: SEPTIC TANKS, LEACH LINES, CESSPOOL, MECHANICAL PUMP OR SYSTEMS, COST OF LOCATING OR TO GAIN ACCESS TO THE SEPTIC TANK, COST OF HOOK-UPS, DISPOSAL OF WASTE AND CHEMICAL TREATMENT OF THE SEPTIC TANK OR SEWER LINES.

System

- ✓ Jet pump
- ✓ Aerobic pump
- ✓ Sewage ejector pump
- ✓ Septic tank line from house to septic tank

NOT COVERED: SEEPAGE PITS, LEACH LINES, LEACH BEDS AND CLEANOUT.

LIMITED ROOF LEAK (Limit up to \$1,000) – COVERED (if purchased)

- ✓ Leaks caused by rain to tar and gravel, tile, shingle, shake and composition roofs over occupied living areas is repaired as long as leaks are caused by normal wear and tear and the roof was in water tight condition on Contract Effective Date. If replacement of the existing roof, in whole or in part, is necessary, Company's responsibility is limited to the estimated cost of repair of the leaking area only, as if the repair of that area were possible.

NOT COVERED: ROOF LEAKS CAUSED BY OR RESULTING FROM: ROOF MOUNTED INSTALLATIONS, METAL ROOFS, IMPROPER CONSTRUCTION OR REPAIR, MISSING OR BROKEN MATERIALS, SKYLIGHTS, PATIO COVERS, GUTTERS, DRAINS, DOWNSPOUTS, SCUPPERS, CHIMNEYS AND DEFECTS IN BALCONY OR DECK SERVING AS A ROOF, ROUTINE PERIODIC MAINTENANCE AND CONSEQUENTIAL WATER DAMAGE.

COMPANY WILL DIRECT A CONTRACTOR TO CONTACT YOU FOR AN APPOINTMENT OR, AT ITS OPTION, MAY AUTHORIZE YOU TO CONTACT A CONTRACTOR DIRECTLY. IF AUTHORIZED, YOU WILL BE GIVEN A SPENDING LIMIT ESTABLISHED BY COMPANY. SECONDARY OR CONSEQUENTIAL WATER DAMAGE IS NOT COVERED BY THIS CONTRACT.

NOTE: SERVICE DELAYS FREQUENTLY OCCUR DURING THE FIRST RAINS OF THE SEASON OR IN HEAVY STORMS. WHILE WE WILL MAKE EVERY EFFORT TO EXPEDITE SERVICE, NO GUARANTEES CAN BE MADE.

LIMITS OF LIABILITY

1. Common areas and facilities of mobile home parks and condominiums are not covered. Common systems and appliances not located within the confines of each individual unit are excluded.
2. Repairs or replacements required as a result of missing parts, fire, flood, smoke, lightning, freeze, earthquake, theft, storms, accidents, mud, war, riots, vandalism, improper installation, acts of God, damage from pests, lack of capacity or misuse are not covered by this Contract.
3. Liability is limited to repair or replacement cost of item due to normal wear and tear. Cosmetic defects are not covered.
4. Company is not responsible for consequential, incidental, emotional distress, pain or suffering, tort or exemplary damages, secondary damage, loss resulting from the malfunction of any item, or a Contractor's delay or neglect in providing, or failing to provide, repair or replacement of an item.
5. Solar systems and components including holding tanks are not covered. Electronic, computerized, pneumatic and manual system management and zone controllers are not covered.
6. Company is not responsible for the following: any corrections, repairs, replacements, upgrades, inspections or other additional costs to comply with federal, state or local laws, utility regulations, zoning or building codes; paying any costs relating to permits, haul away fees, construction, carpentry or relocation of equipment; gaining or closing access to items except where noted in this Contract; and, alterations or modifications made necessary by existing equipment or installing different equipment except where noted in the Central Air Conditioning section of this Contract. Company will not alter structure to effect repair or replacement, nor refinish or replace cabinets, countertops, tile, paint, wall or floor coverings or the like.
7. Company will not effect service involving hazardous or toxic materials, including asbestos or any other contaminants. Company is not responsible for any claim arising out of any pathogenic organisms regardless of any event of cause that contributed in any sequence to damage or injury. Pathogenic organisms mean any bacteria, yeasts, mildew, virus, fungi, mold or their spores, mycotoxins or other metabolic products.
8. Contract covers only single family residential-use property, residential-use resale property or residential-use new construction property. Residential property over 5,000 square feet, multiple units, guest houses and other structures are covered if the appropriate fee is paid. Contract is for owned or rented residential property, not for commercial property or premises converted into a business, including but not limited to, nursing/care homes, fraternity/sorority houses or day care centers.

9. Company will determine, at its sole discretion, whether a covered system or appliance will be repaired or replaced. When replacing any appliance, Company will not pay for any failures that do not contribute to the appliance's primary function including, without limitation, TVs or radios built into the kitchen refrigerator. Company will replace with equipment of similar features, efficiency and capacity but is not responsible for matching brand, dimensions or color. Company may install a smaller capacity unit, including but not limited to water heaters and furnaces, if the projected output of the replacement unit is similar to, or greater than, the replaced existing unit. Company reserves the right to replace with a rebuilt component or part or repair systems and appliances with non-original manufacturer's parts.
10. Company may obtain a second opinion.
11. Company is not responsible for repairs arising from manufacturer's recall of covered items, manufacturer's defects or for items covered under an existing manufacturer's, distributor's or in-home warranty. The covered items must be domestic or commercial grade and specified by the manufacturer for residential use.
12. Company is not responsible for repair or replacement of any system, appliance, component or part thereof that has previously, or is subsequently, determined to be defective by the Consumer Product Safety Commission or the manufacturer, and for which either entity has issued, or issues a warning or recall, or when a failure is caused by manufacturer's improper design, use of improper materials, formula, manufacturing process or manufacturing defect.
13. This Contract does not cover routine maintenance.

CUSTOMER SERVICE

1. Telephone service is available at all times. During normal working hours your call will be dispatched within 4 hours of confirmation of coverage. The services contracted for will be initiated under normal circumstances by the Contractor within 48 hours after request is made by the Contract holder. Contract holder's telephone call to Company describing the problem is considered sufficient notice. Company will commence diagnosis without first requiring the completion of a written claim form or other such form of proof of loss. When your coverage is confirmed, Company will dispatch your call to a qualified Contractor. The Contractor will call you to schedule a mutually convenient appointment time; additional efforts are made in emergency situations. If you should request Company to perform non-emergency service outside of normal business hours, you will be responsible for payment of additional fees, including overtime charges.
2. Contract holder pays the \$75 service call fee for each separate trade call. Trade call means each visit by an approved Contractor, unless multiple visits are required to remedy the same problem. Persons dispatched for trade calls are independent contractors, not agents or employees of the Company. Company warrants Contractor's work for 30 days. If the item fails outside this time period, an additional service call fee will be charged. Failure to pay the service call fee may delay processing of future claims. *Subterranean Termite Treatment customers only:* there is a one time \$200 service call fee per Contract for Optional Subterranean Termite Treatment.

3. Sometimes Company may not be able to locate a contractor to service your claim and may request that you contact an independent licensed contractor. Covered repairs or replacements will be authorized if the work can be completed at an agreed upon rate. If your contractor does not bill Company directly you will be reimbursed the authorized amount upon receipt of a paid invoice.
4. Contract holder and Company may agree on payment of cash in lieu of repair or replacement. Payment is made based on Company's negotiated rates with its suppliers, which may be less than retail.
5. Sometimes there are problems and delays in securing parts or equipment. When the items are secured, they are installed promptly without any further service charge.

TRANSFER OF CONTRACT

If your covered property is sold during the term of this Contract, you have the right to assign this Contract provided that you notify Company of the change in ownership and must submit the name of the new owner by phoning (800) 444-9030 to transfer coverage.

CANCELLATION

Obligations of this Contract are backed by the full faith and credit of the Contract Provider, First American Home Warranty Corporation (Company), and are not guaranteed by a service contract reimbursement insurance policy.

Unless allowed by law, this Contract is noncancelable other than by mutual agreement of the Contract holder and Company.

Contract holder's request for cancellation must be in writing and can be submitted to cancellationsupport@firstam.com.

Company will not cancel your Contract except for any of the following reasons:

1. Nonpayment of Contract fees when due.
2. The subscriber's fraud or misrepresentation of facts material to the issuance of this Contract, or in presenting a claim for service thereunder.
3. This Contract provides coverage prior to the time that an interest in residential property to which it attaches is sold and the sale of the residential property does not occur.

Mississippi and Tennessee Residents Only:

If this Contract is cancelled, the Contract holder shall be entitled to a pro rata refund of the paid Contract fee for the unexpired term, less a \$50 administrative fee and all service costs incurred by Company.

Alabama and Arkansas Residents Only:

If this Contract is returned for cancellation within 30 days of the time this Contract is mailed or within 20 days of delivery to the Contract holder and no claim has been made, this Contract is deemed void and the Contract holder shall be entitled to a refund of the full purchase price. The right to void this Contract is not transferable and shall apply only to the original Contract purchaser and only if no claim has been made prior to its return to Company.

If a claim has been made or if this Contract is cancelled at any other time, the Contract holder shall be entitled to a pro rata refund of the paid Contract fee for the unexpired term, less a \$50 administrative fee (\$25 administrative fee for Alabama residents) and all service costs incurred by Company.

If Company cancels this Contract, Company shall use the last known address on record to send by first-class mail a written notice to the Contract holder at least 30 days prior to the cancellation that states the effective date and reason for cancellation. In such case, the Contract holder shall be entitled to a pro rata refund and will not be charged a cancellation fee.

Any refund due to the Contract holder shall be paid or credited within 30 days after this Contract is returned to Company. A 10% penalty of the purchase price shall be added per month to a refund not paid or credited every 30 days thereafter.

Georgia Residents Only:

The Contract holder may cancel this Contract at any time upon demand and surrender of the Contract to Company and in the event of such cancellation, Company will refund to the Contract holder the excess of paid charges above customary short rates for the expired term.

Cancellation for Georgia residents shall conform to the requirements of Section 33-24-44 of the Georgia Insurance Code.

YOUR DUTIES

You are responsible for the following: (i) Protecting appliances/systems; (ii) Reporting claims promptly; (iii) Installing and maintaining appliances/systems following manufacturer's specifications and (iv) Maintenance if the Contractor determines it is required to achieve manufacturer results of systems and appliances.

MISCELLANEOUS

Georgia Residents Only:

THIS IS NOT A CONTRACT OF INSURANCE. If Company fails to pay any valid claim within 60 days after due proof of loss has been filed, a claimant is entitled under Georgia law to make such claim directly against Fidelity and Deposit Company of Maryland at the address shown on your Home Warranty Summary page.

RESOLUTION OF DISPUTES

This provision constitutes an agreement to arbitrate disputes on an individual basis. Any party may bring an individual action in small claims court instead of pursuing arbitration.

All disputes and claims arising out of or relating to the Contract must be resolved by binding arbitration. This agreement to arbitrate includes, but is not limited to, all disputes and claims between Company and the Homeowner, Company and the Seller, and claims that arose prior to purchase of the Contract. This agreement to arbitrate applies to Company, Homeowner and Seller, and their respective parent and subsidiary companies, affiliates, agents, employees, predecessors and successors in interest, assigns, heirs, spouses, and children. As noted above, a party may elect to bring an individual action in small claims court instead of arbitration, so long as the dispute falls within the jurisdictional requirements of small claims court.

Any arbitration must take place on an individual basis, and Company, the Homeowner and the Seller agree that they are waiving any right to a jury trial and to bring or participate in a class, representative, or private attorney general action, and further agree that the arbitrator lacks the power to consider claims for injunctive or declaratory relief, or to grant relief affecting anyone other than the individual claimant.

The arbitration is governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (the "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and will be administered by the AAA. Company will pay all AAA filing, administration and arbitrator fees for any arbitration it initiates and for any arbitration initiated by another party for which the value of the claims is \$75,000 or less, unless an arbitrator determines that the claims have been brought in bad faith or for an improper purpose, in which case the payment of AAA fees will be governed by the AAA Rules.

The arbitration will take place in the same county in which the property covered by the Home Warranty Contract is located. The Federal Arbitration Act will govern the interpretation, applicability and enforcement of this arbitration agreement. This arbitration agreement will survive the termination of this Warranty Contract.

AGREEMENT

This Agreement constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements and understandings of the Parties. No modifications to this Agreement are effective unless in writing and signed by both Parties.

Privacy Policy

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at www.firstam.com.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Privacy Policy

Use of Information

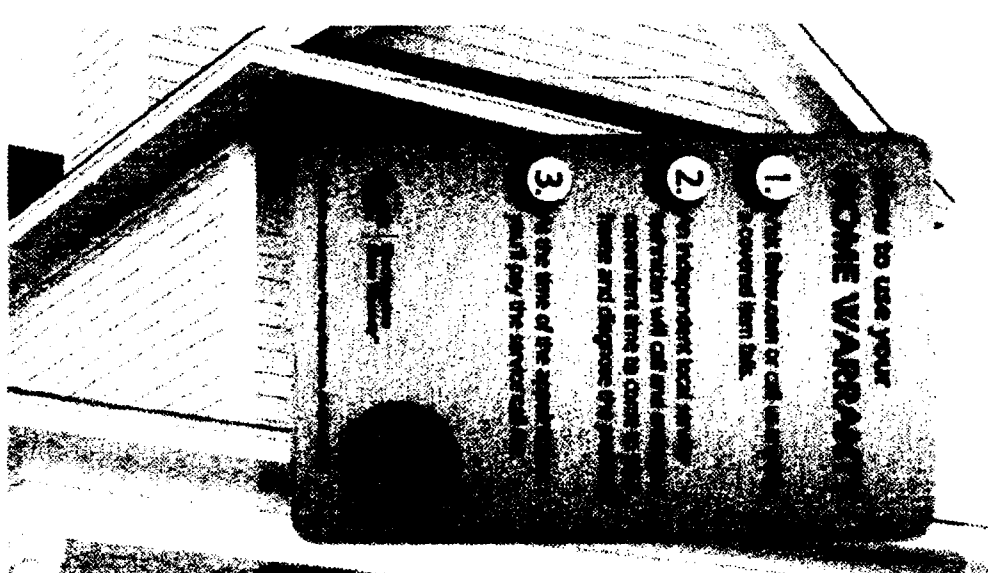
We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.



You Can Count On

1. Go to fahw.com.
2. Select "Register" in the top right hand corner.
3. Enter your information.
4. Once your account is created, make sure to add your current contract ID. It can be found on the Home Warranty Summary page and on the front of your Customer Service Card.

FAHW Online is the fast, easy way to request service, manage your account, and renew your coverage.

You've got me!

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Your "little peace of mind"

Congratulations, you're covered by a
First American home warranty!

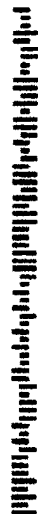
Keep your personalized Customer Service Card in a convenient place to use when
requesting service. It has all the information you need to get the process started.

202-649-1879 - 37570

LYNN

16 GOLD LAKE CLUB RD

CONWAY AR 72032-9243



CONTRACT #: 10558900301

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